

Message Text

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ACTION PPT-02

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FM AMEMBASSY MOSCOW

TO SECSTATE WASHDC PRIORITY 1287

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FOR EUR/SOV AND PPT

E.O. 11652: N/A

TAGS: CPAS, CASC (MAXIN, KATHERINE AKA MAKSIMENKO, YEKATERINA)

SUBJ: SOVIET EMIGRANT: CITIZENSHIP CASE

REF: STATE 163437

1. EMBASSY BELIEVES INFORMATION OBTAINABLE AS TO PRECISE MANNER OF ACQUISITION LIMITED TO WHAT MRS. MAXIN HAS ALREADY INFORMED CONSOFF; NAMELY SHE REQUESTED SOVEMB BY MAIL FOR DOCUMENTATION FOR EXTENDED STAY

IN SOVUNION. MRS. MAXIN, WHO IS UNEDUCATED AND OF LIMITED SOPHISTICATION, CLEARLY DID NOT COMPREHEND THE POSSIBLE LEGAL CONSEQUENCES OF MAKING SUCH A REQUEST. IT IS LIKELY THAT EVEN AT THIS POINT SHE DOES NOT FULLY UNDERSTAND REASONS FOR HER PRESENT PREDICAMENT.

2. EMBASSY ASSUMES DEPT. IS NOT REQUESTING POST TO QUERY MFA AS TO LEGAL BASIS FOR GRANT TO SUBJECT OF SOVIET PASSPORT. PRESUMABLY SOVIET HAVE LONG CONSIDERED SUBJECT SOVIET CITIZEN (SEE PARA 3) AND HER APPLICATION FOR TRAVEL DOCUMENT MERELY PRESENTED OCCASION FOR DECLARING THAT FACT. EMBASSY HAS NOT FOUND IT PROFITABLE IN PAST TO DISCUSS SOVIET NATIONALITY LAWS AT MFA, EITHER IN GENERAL OR IN SPECIFIC CASES. EMBASSY CONSIDERS THAT SUCH INQUIRIES MIGHT FOCUS THE ATTENTION OF THE SOVIET AUTHORITIES ON THE APPLICANTS, AND PLACE THEM IN JEOPARDY. FOR THE SAME CONSIDERATION, WE HAVE NOT IN THE PAST INSTRUCTED APPLICANTS TO ATTEMPT TO OBTAIN SUCH EVIDENCE THEMSELVES FROM

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THE SOVIET AUTHORITIES. IT SEEMS UNLIKELY THEY COULD OBTAIN

IT WITHOUT AN EXPLANATION OF ITS USE, AND THE SOVIET REACTION TO A SOVIET CITIZEN ON SOVIET SOIL TRYING TO ESTABLISH HIS US CITIZENSHIP WOULD UNDOUBTEDLY BE HOSTILE.

3. DEPARTMENT SHOULD ALSO UNDERSTAND THAT EMBASSY DOES NOT ITSELF HAVE LEGAL CAPABILITY TO ASCERTAIN "PRECISE MANNER" OF ACQUISITION BY SUBJECT OF SOVIET CITIZENSHIP. WE CAN ONLY HYPOTHESIZE THAT SUBJECT'S PARENTS PROBABLY ACQUIRED SOVIET NATIONALITY IN 1939 (BY VIRTUE SOVIET PRESIDIUM EDICT WHICH GRANTED SUCH CITIZENSHIP TO POLISH CITIZENS ON TERRITORY OF WESTERN DISTRICTS OF UKRAINE AND BELORUSSIA WHEN THESE WERE INCORPORATED INTO USSR NOV. 1-2, 1939) AND THAT SUBJECT, THOUGH A NONRESIDENT, DERIVED SOVIET CITIZENSHIP IN TURN FROM PARENTS.

4. AS DEPARTMENT AWARE, SOVIET NATIONALITY LAWS ARE EXTREMELY COMPLEX, AT TIMES UNCLEAR, AND NOT ALWAYS CONSISTENTLY APPLIED. SOVIET SCHOLARS THEMSELVES HAVE OPENLY NOTED THESE DEFICIENCIES, WHICH IS AN UNUSUAL ADMISSION HERE. REFERRING TO THE PIVOTAL 1938 LAW ON CITIZENSHIP, A SOVIET WRITER HAS COMPLAINED THAT IT "NEEDS TO BE MADE MORE PRECISE IN VIEW OF ITS INCOMPLETENESS.... GOING BY LITERAL MEANING, IT IS DIFFICULT TO DETERMINE TO WHAT CITIZENSHIP BELONG CHILDREN OF SOVIET CITIZENS AND THAT IS WHY TO APPLY IT WITHOUT NECESSARY INTERPRETATION IS COMPLICATED BUSINESS" (A. IA. BERCHENKO, "VOPROSY SOVETSKOGO GRAZHDANSTVA, IN TORZHESTVO LENINSKOI NATIONAL'NOI POLITIKI (MOSCOW 1963) P. 278).

5. THIS EMBASSY DOES NOT HAVE THE RESEARCH CAPABILITY TO APPEND INTERPRETATIVE COMMENTARIES TO ITS CITIZENSHIP CASES. IN PAST DEPARTMENT HAS PROVIDED THIS EXPERTISE, AND HAS RESOLVED SUCH CASES IN MOST HUMANE POSSIBLE MANNER CONSISTENT WITH US LAWS. WE DO NOT FULLY UNDERSTAND WHY DEPARTMENT SHOULD NOW CALL ON POST FOR SUCH REPORT IN THIS CASE.

6. EMBASSY IS AWARE THAT 8 FAM 224.19(C) CALLS FOR RESOLUTION OF CITIZENSHIP CASES BEFORE IMMIGRANT VISAS ARE ISSUED. AT SAME TIME EMBASSY RECOGNIZES ITS PRIME TASK IS TO SECURE REUNIFICATION OF DIVIDED FAMILIES AS EXPEDITIOUSLY AS POSSIBLE. IN PRACTICE THIS MEANS EMBASSY MUST TAKE INTO ACCOUNT NEAR-TERM DATES ON WHICH SOVIET EXIT VISAS EXPIRE, SOMETIMES SHORT-CUTTING FORMALITIES LIMITED OFFICIAL USE

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WHICH THREATEN TO DELAY THE PROCESSING OF A CASE, AND WHICH CAN JUST AS WELL BE COMPLETED OUTSIDE OF USSR. SOVIET PROCEDURES FOR EXTENDING EXIT VISAS ARE THEMSELVES SO UNCLEAR AND THE RESULTS SUFFICIENTLY UNCERTAIN THAT EMBASSY ALWAYS MAKES EXTRA EFFORT TO PROCESS ALL CASES BEFORE EXPIRATION DATE. AT TIMES THIS HAD MEANT ISSUANCE OF VISAS TO SOME APPLICANTS EVEN THOUGH THEIR US CITIZENSHIP STATUS HAD NOT BEEN ENTIRELY CLARIFIED. REGARDLESS OF ADVANCED DETERMINATION MADE IN INDIVIDUAL

CASES, PERSONS CONSIDERED BY SOVIET AUTHORITIES TO BE SOVIET
CITIZENS MUST DEPART USSR ON SOVIET PPT. FOR ITS PART,
EMBASSY BELIEVES THERE IS NO AMBIGUITY ABOUT MRS. MAXIM'S
US CITIZENSHIP AND HOPES IT CAN STILL ARRANGE HER DEPARTURE
BEFORE EXPIRATION OF HER EXIT PERMISSION.
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